

#5/8tr. re: Restart
Hawkins
10/24/02Docket No.: 2523-073

PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of :
Rikuro OBARA :
Serial No. 10/087757 : Group Art Unit: 2834
Filed: March 5, 2002 : Examiner: ELKASSABGI, HEBA
For: MOTOR :
:

REQUEST FOR CORRECTED ACTION AND RESTARTED RESPONSE DATE

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Assistant Commissioner for Patents
Washington, D. C. 20231

OCT 1 - 2002

Sir:

It is respectfully submitted that the pending Official Action in the above identified application, mailed July 3, 2002, is flawed and makes a meaningful response by applicant impossible. In order to advance prosecution, it is courteously submitted that a Corrected Official Action, having a newly set Response Date, is in order for the following reasons.

In rejecting the claims, and particularly claims 2, 8 and 9, the Examiner states at paragraph 9 of the Action that these claims are rejected "as being unpatentable over Itsu (U.S. Patent 5128571) and further in view of Takemura et al. (U.S. Patent 5880545) and Pujari et al. (U.S. Patent 6158894)."

However, in furtherance of the rejection of claims 2, 8 and 9, specifically at paragraph 13 of the Action, the Examiner refers to a prior patent of applicant, stating

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that "Obara et al. discloses in Column 8 line 54 to 56 an inner ring which is axially slidable relative to the axle (shaft) in order to accomplish the object of the invention of allowing a pre-load to be easily applied to the bearings". Then, At paragraph 15, the Examiner combines the Obara reference with other art in asserting obviousness of the rejected claims.

Nowhere, however, does the Examiner identify which Obara patent is being relied upon!

It is respectfully submitted that applicant has obtained numerous patents, issued throughout the world, and that without proper identification, it is impossible to ascertain which of applicant's prior references is being applied as "Obara et al.". Thus, without notice of which "Obara et al." reference is relied upon, it is impossible for applicant to provide a proper and meaningful response to the Official Action.

Indeed, in the pending Action alone the Examiner cites six of applicant's prior U.S. patents, two of which are designated as "Obara et al." and four of which are designated as "Obara, Rikuro".

Accordingly, the Action is clearly deficient in failing to identify the patent being applied to reject claims 2, 8 and 9.

Applicant further submits that, at paragraph 16 of the pending Action, the Examiner rejects claims 3, 10 and 11 over a combination of references including Miyazaki et al. USP 5547291 and Obara et al. USP 5556209 and, at paragraphs 18 and 20 of the Action, the Examiner describes features of Miyazaki et al. and Obara et al.

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However, while the assertion of obviousness made at paragraph 23 refers to Miyazaki, the paragraph (and indeed the Action) fails to make any reference to Obara.

Thus, it is not clear whether the rejection of claims 3, 10 and 11 does, or does not, rely on the Obara reference and clarification is necessary before applicant can provide a proper response.

Still further, at paragraph 30 of the Action, the Examiner rejects claims 5, 14 and 15 over a combination of references also including Miyazaki et al. and Obara et al.. However, while paragraph 32 identifies relevant features of Miyazaki being applied to support the rejection, nowhere in the rejection of claims 5, 14 and 15 does the Examiner identify which features of Obara are relied upon and, while the assertion of obviousness made at paragraph 36 refers to Miyazaki, the paragraph (and indeed the Action) fails to make any reference to features of Obara supporting the rejection.

Thus, it is not clear whether the rejection of claims 5, 14 and 15 does, or does not, rely on the Obara reference and clarification is necessary before applicant can provide a proper response.

Finally, it is also noted that:

- 1) the Obara reference identified at paragraphs 16 and 30 of the Action (USP 5556209) does not even have a "column 8, lines 54-56" as applied, and
- 2) the "Miyazaki et al. USP 5547291" reference applied in paragraphs 16 and 30 of the Action, was not made of record, or listed, in PTO Form 892 attached to the Action, nor was a copy of the reference supplied by the Examiner for applicant's review.

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In summary, it is respectfully submitted that:

- 1) the Action is incomprehensible as to reliance or lack thereof on "Obara et al." in rejecting claims 2, 8 and 9, claims 3, 10 and 11, and claims 5, 14 and 15;
- 2) with respect to claims 2, 8 and 9, the Action is further deficient in failing to identify the "Obara et al." reference which appears to have been relied upon, and
- 3) the Action is incomplete in failing to identify or to supply a reference (Miyazaki) which appears to have been relied upon in the rejection of claims 3, 10 and 11 in paragraph 16 and in the rejection of claims 5, 14 and 15 in paragraph 30 of the Action.

In view of the foregoing, it is courteously submitted that applicant cannot provide a proper and meaningful response to the Official Action inasmuch as the Action is unclear as to which references were, or were not, relied upon and inasmuch as the Action failed to provide clear identification (or copies) of the art apparently relied on.

Therefore, it is requested that a Corrected Action be issued, and that the time for response thereto be reset appropriately.

Respectfully submitted,

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October 1, 2002	
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